

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

SYRIS T. BIRKLEY,

Plaintiff,

v.

Case No. 25-cv-0204-bbc

DENITA R. BALL et al.,

Defendants.

DECISION AND ORDER

Plaintiff Syris Birkley is an inmate at the Milwaukee County Jail who is representing himself in this 42 U.S.C. §1983 action. On March 26, 2025, the Court screened the complaint and allowed Birkley to proceed on First Amendment claims in connection with allegations about how his mail is processed and stored. On May 27, 2025, Defendants Milwaukee County and the Milwaukee County Sheriff filed a motion to dismiss. That same day, Defendant ViaPath Technologies filed its own motion to dismiss. Less than a week later, on June 2 and June 4, 2025, Birkley filed motions for a preliminary injunction regarding the delivery of his mail. The Court held a telephonic status conference a few weeks later, on June 24, 2025, during which counsel for the County Defendants confirmed that, despite opting out of the mail policy, Birkley has access to digital copies of all court filings. On July 15, 2025, Counsel for the County Defendants informed the Court that Birkley also has been provided paper copies of Defendants' motions to dismiss and the supporting materials. Dkt. No. 36.

On July 15, 2025, Birkley filed a document he captioned "Amended Complaint pursuant [to] Civil Rule 15," in which he acknowledges that he has had access to both motions to dismiss

since June 30, 2025. Dkt. No. 35. Despite captioning the filing as an amended complaint, Birkley's filing is better characterized as a response to Defendants' motions to dismiss. The filing does not comply with Civil L. R. 9(b) in that it is not prepared on the Court's amended complaint form, nor does it comply with Fed. R. Civ. P. 8(a) in that it does not contain a "short and plain statement of the claim showing the pleader is entitled to relief" or "a demand for the relief sought." Instead, the filing responds to the legal arguments Defendants raised in their motions to dismiss. Accordingly, the Court will construe Birkley's filing as a response to Defendants' motions to dismiss and will allow Defendants to reply in support of their motions within fourteen days of this order.

IT IS THEREFORE ORDERED that Birkley's filing that he captioned as an "amended complaint" is construed as a response to Defendants' motions to dismiss. Defendants may reply in support of their motions within **fourteen days** of this order.

Dated at Green Bay, Wisconsin on July 16, 2025.

s/ Byron B. Conway

BYRON B. CONWAY

United States District Judge